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OFFICE OF PETITIONS

In re Application of
NiraJ Mahadev, et al.
Application No. 10/683,927
Filed: October 10, 2003
Attorney Docket No. 2855/98

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ON PETITION

This is a decision on the petition, filed May 29, 2007, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned on February 17, 2007 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 16, 2006. On May 29, 2007, the present petition was filed. A Notice of Abandonment was subsequently, mailed on May 31, 2007. Thereafter on June 18, 2007, a Notice of Appeal (and fee) was filled, including a one-month extension of time, followed by an Appeal Brief, the requisite fee and a one-month extension of time on September 18, 2007.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of \$500; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay¹.

¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Extensions of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$120 extension of time fees submitted on June 18, 2007 and September 18, 2007 were subsequent to the maximum extendable period for reply, these fees are unnecessary and will be credited to petitioner's deposit account..

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Technology Center AU 1763 for appropriate action by the Examiner in the normal course of business.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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